

<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 150px;"> OCT 23 2014 </div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

GARY J. WINKLER,

Petitioner,

vs.

C/O GODECKI, *et al.*,

Respondents.

Case No. 3:13-cv-00711-RCJ-VPC

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On May 28, 2014, the court ordered that plaintiff's excessive force claim shall proceed and dismissed his remaining claims with leave to amend (#6). On June 30, 2014, plaintiff filed an amended complaint (#8). In the amended complaint, plaintiff did not include his excessive force claim, which appeared as count I in his original complaint, but started his amended complaint with count II. Further, plaintiff references "the physical attack upon plaintiff" by Godecki, but sets forth no specific allegations regarding excessive force. It is apparent that plaintiff believes that the excessive force claim from his original complaint is incorporated into his amended complaint. However, this is incorrect. Plaintiff is now expressly reminded that the court cannot refer to a prior pleading in order to make his amended complaint complete. Local Rule 15-1 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended

1 complaint, the original pleading no longer serves any function in the case. Therefore, in an amended
 2 complaint, as in an original complaint, each claim and the involvement of each defendant must be
 3 sufficiently alleged.

4 Here, plaintiff will be given a final opportunity to file an amended complaint. His
 5 amended complaint must contain each and every claim that he wishes to assert, that is, he must include
 6 the allegations regarding his excessive force claim, in full, as well as the First, Eighth and Fourteenth
 7 Amendment allegations that he included in the amended complaint he filed at docket #8.

8 **IT IS THEREFORE ORDERED** that within **thirty (30) days** of the date of this order,
 9 plaintiff SHALL FILE a second amended complaint, in which he sets forth each and every constitutional
 10 claim against each and every defendant. The amended complaint must be a complete document in and
 11 of itself, and will supersede the original complaint in its entirety. Any allegations, parties, or requests
 12 for relief from prior papers that are not carried forward in the amended complaint will no longer be
 13 before the court.

14 **IT IS FURTHER ORDERED** that plaintiff shall clearly title the amended complaint
 15 as such by placing the words "SECOND AMENDED" immediately above "Civil Rights Complaint
 16 Pursuant to 42 U.S.C. § 1983" on page 1 in the caption, and plaintiff shall place the case number, **3:13-**
 17 **CV-00711-RCJ-VPC**, above the words "SECOND AMENDED" in the space for "Case No."

18 **IT IS FURTHER ORDERED** that plaintiff is expressly cautioned that if he does not
 19 timely file a second amended complaint in compliance with this order, the court will screen the first
 20 amended complaint at docket #8.

21 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank section 1983
 22 civil rights complaint form with instructions along with one copy of the first amended complaint (#8).

23
 24
 25 DATED this 23rd day of October, 2014.

26
 27 
 28 UNITED STATES MAGISTRATE JUDGE